

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

OPTIS WIRELESS TECHNOLOGY, LLC,  
ET AL.,

v.

APPLE, INC.

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Case No. 2:19-cv-66- JRG

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**MINUTES FOR PRETRIAL CONFERENCE  
HELD BEFORE U. S. DISTRICT JUDGE RODNEY GILSTRAP  
July 27, 2020**

**OPEN: 9:04 a.m.**

**ADJOURN: 5:34 p.m.**

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ATTORNEYS FOR PLAINTIFFS:	See attached.
ATTORNEYS FOR DEFENDANT:	See attached.
LAW CLERKS:	Taylor Mauze Adrienne Dellinger Taylor Fitzner Adam Ahnhut
COURT REPORTER:	Shelly Holmes, CSR-TCRR
COURTROOM DEPUTY:	Jan Lockhart

<u>TIME</u>	<u>MINUTES</u>
9:04 a.m.	Counsel announced ready for hearing

<u>TIME</u>	<u>MINUTES</u>
	<p>The Court gave the parties instructions for Jury Selection and Trial. Jury Selection will be held on Monday, August 3, 2020. Opening statements and evidence are scheduled to begin after Jury Selection. The Court and staff are in chambers each morning at 7:30 a.m. The trial will start each day at 8:30 a.m. Exhibits used the prior day will be read into the record prior to the jurors returning to the courtroom (usually around 8:15 a.m.). The Court allotted <b>13 hours</b> per side to try the case (this time does not include the time for voir dire, opening statements and closing arguments); 40 minutes a side for voir dire (of this time, a 3-minute, high level, overview of the case may be given); 30 minutes for opening statements and 45 minutes a side for closing arguments; 8-member jury to be selected (four strikes per side); procedures for disputes discussed. The Court allotted 3 hours per side for the bench trial. Court to be notified by 10:00 p.m. each night of disputes re demonstratives to be used the next day, or that there are no disputes. Binders with disputed information are to be prepared and submitted to the Court at 7:00 a.m. the following day. Deposition disputes are to be given to the Court the day before they are going to be used. Rule 50(a) motions will be heard after ALL evidence is concluded. The informal charge conference will be held in chambers after Rule 50(a) motions are heard. A formal charge conference will follow afterward. The Court discussed policies and the Standing Order regarding the sealing of the courtroom. Juror questionnaires and the manner of use thereof were discussed, i.e., copies of the Juror Questionnaire may be obtained from the Deputy-in-Charge, Kecia Clendenning. Juror notebooks are to be prepared by counsel and delivered to the Court by 3:00 p.m. on July 30, 2020. Each notebook should include the Patents-in-Suit, the Court's claim construction chart, tabbed witness pages (each witness page should contain a head and shoulders photograph of the witness followed by ruled lines on the remainder of the page), a 3-hole punched legal pad and a non-clicking pen. The Court also gave guidance regarding expert witness testimony. Exhibits will be pre-admitted. Only exhibits used during the trial will be considered as part of record. Witness lists are to be revised and filed by the parties within 24 hours as to May Call Witnesses and Will Call Witnesses. The Court set aside July 28, 2020 at 9:00 a.m. for an additional pretrial, if needed.</p>
10:11 a.m.	<p><b>Courtroom sealed.</b> The Court heard argument on Defendant's Amended Motion for Summary Judgment on Patent Exhaustion of '154 and '774 Patents (Dkt. No. 232) and Plaintiffs' Motion for Summary Judgment on Apple's Exhaustion/License Defense (Dkt. No. 161). Mr. Syrett argued on behalf of Defendant. Mr. Sheasby argued on behalf of Plaintiff. The Court DENIED both motions for the reasons set forth on the record.</p>
10:51 a.m.	<p><b>Courtroom unsealed.</b> Recess.</p>

<u>TIME</u>	<u>MINUTES</u>
11:08 a.m. 11:11 a.m.	Court reconvened. <b>Courtroom sealed.</b> The Court heard argument on the Sealed Patent Motion for Summary Judgment that Plaintiffs Did Not Breach Their FRAND Obligations filed by Plaintiffs (Dkt. No. 165); Sealed Patent Motion to Dismiss Count VIII for Lack of Subject Matter Jurisdiction Table of Contents filed by Apple Inc. (Dkt. No. 169); and Defendant's Motion to Strike Plaintiffs' Reply to Apple Inc.'s Defenses filed by Apple, Inc. (Dkt. No. 138). Mr. Sheasby argued for Plaintiff. Mr. Mueller argued for Defendant.
12:05 p.m.	<b>Courtroom unsealed.</b> Recess.
1:54 p.m.	Court reconvened. The Court ruled on the following motions in the manner and for the reasons set forth on the record at the hearing: Sealed Patent Motion for Summary Judgment that Plaintiffs Did Not Breach Their FRAND Obligations filed by Optis Cellular Technology, LLC, Optis Wireless Technology, LLC, PanOptis Patent Management, LLC, Unwired Planet International Limited, Unwired Planet, LLC. (Dkt. No. 165); Sealed Patent Motion to Dismiss Count VIII for Lack of Subject Matter Jurisdiction Table of Contents filed by Apple Inc. (Dkt. No. 169); and Defendant's Motion to Strike Plaintiffs' Reply to Apple Inc.'s Defenses filed by Apple (Dkt. No. 138).
2:12 p.m.	The Court heard argument on the Sealed Patent Motion for Summary Judgment of No Derivation for U.S. Patent Nos. 8,385,284 and 8,005,154 and no Obviousness for 8,005,154 filed by Optis Cellular Technology, LLC, Optis Wireless Technology, LLC, PanOptis Patent Management, LLC, Unwired Planet International Limited, Unwired Planet, LLC (Dkt. No. 167) and the Sealed Patent Motion For Summary Judgment of Invalidity of Asserted Claims of U.S. Patent No. 8,019,332 Under 35 U.S.C. § 101 filed by Apple Inc. (Dkt. No. 164). Mr. Sheasby and Ms. Zhong argued for Plaintiffs. Mr. Selwyn argued on behalf of Defendant. The Court ruled on the motion in the manner and for the reasons set forth on the record at the hearing.
3:07 p.m.	Recess.
3:45 p.m.	Court reconvened. The Court addressed the parties' progress on representative products. Messrs. Sheasby and Mueller spoke on behalf of the parties.
3:47 p.m.	Lead counsel for the parties are to meet and confer regarding representative products.
3:50 p.m.	The Court heard argument on Plaintiffs' Motion to Strike Lanning Non-Infringement Opinions on '332 and '557 Patents (Dkt. No. 173), Plaintiffs' Motion to Exclude Buehrer's non-infringement opinions on '284 patent (Dkt. No. 176) and on '154 patent (Dkt. No. 179), and Plaintiffs' Motion to Exclude Non-Infringement opinions of Wells on '774 Patent (Dkt. No. 183) and '833 Patent (Dkt. No. 184). Mr. Sheasby argued for Plaintiffs. Mr. Selwyn argued for Defendant.
	The Court ruled on the motions in the manner and for the reasons set forth on the record at the hearing.
5:34 p.m.	Court adjourned.